

# **Complying with Iowa Code Chapter 556, the Uniform Disposition of Unclaimed Property Act 2015**

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**Treasurer of State**

**Presented by**  
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Deputy Treasurer  
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# Presentation Objectives

- Origin/Scope of Chapter 556
- Role of Federal Common Law
- Common Compliance Errors & Omissions
- Current State Treasurer's Office Compliance Initiatives
- Questions & Answers



## What Is Unclaimed Property?

- Property is considered “unclaimed” when the owner has failed to acknowledge the existence of or claim an asset for a set period of time.
- Iowa's dormancy period is generally three (3) years.
- Property can take several forms:
  - 1) An outstanding obligation owed by one party to another, such as an uncashed check or other type of payment.
  - 2) Dormant financial assets, such as an inactive accounts, abandoned stock, or other investments.
  - 3) Tangible items from safe deposit boxes after three years of unpaid rent.



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## Abandonment Periods

- Traveler's checks, 15 yrs
- Express Money orders, 7yrs
- Life insurance policies reaching their limiting age, 2 yrs
- Utility deposits and refunds, 1 yr
- Wages/commissions, 1 yr
- Dissolutions, 1 yr
- State/local governments, 2 yrs

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## Unclaimed Property History

- **Then:** In 1954, nationally uniform state laws went into effect creating custodial unclaimed property law. This model act was updated in 1966, 1981 and 1995.
- Iowa adopted the Unclaimed Property law in 1967 - Iowa Code Chapter 556.
- **Now:** The Great Iowa Treasure Hunt was created in 1983 to locate the rightful owners of unclaimed property.



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## Unclaimed Property History

- Iowa, like most other states, has adopted a version of one of the Uniform Acts; and, like most other states, the text has been modified.
- Nonetheless, the underlying concepts are consistent in the laws of the various states (including Iowa) and Chapter 556 is to be “construed as to effectuate its general purpose to make uniform” the unclaimed property laws of the states §556.29.
- There have been several Uniform Acts throughout the years. At this time a new one is being drafted.



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- FY 2015: 34,373 claims paid consisting of:
  - \$14,783,145.20 cash dispersed.
  - 152,587.1554 shares delivered.
  - 242 safe deposit boxes.
- Property received with an owner name/address has a 65 percent return rate.
- In FY15, returned \$2.3 million to an estate in Storm Lake
- Millions of dollars in property returned directly to owners by holders as a result of statutorily-mandated due diligence (§556.11 (5)).



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## Why is this important?

- Unclaimed property is about consumer protection.
- States are custodians of the property.
- States stand in the shoes of the owner.
- Money belongs to the people.
- Millions of individuals have come forward to claim their funds.
- Claims paid since inception: 468,000 claimants, \$198 million plus 2.4 million shares of stock.





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# Underlying concepts in modern day unclaimed property laws

- Why should unclaimed property benefit of the holder?
- Why should holders have a duty to search for owners before property is delivered to the state (§556.11(5))?
- Why should holders be relieved of liability when complying with the law (§556.14)?
- Statutes of limitation cannot be asserted against the state (§556.16).
- The state should perform owner outreach and maintain processes for the payment of claims (§556.12, 19, 20).
- Sanctions should be brought against holders who fail to report (§556.25).



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## Who is a "holder" and thus subject to Chapter 556?

- Any entity that engages in commerce can potentially generate unclaimed property.
- holder (noun) any entity in possession of unclaimed property belonging to another, or indebted to another on an obligation.
- Chapter 556 specifies various businesses that potentially hold unclaimed property:
  - financial institutions, life insurers, utilities, and government agencies or subdivisions
- Ultimately the law applies to all business associations, wherever located, domiciled, or incorporated.
- Any "person" §556.1(5) can be holding unclaimed property:
  - "person" defined as "any individual, business association, government, political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other commercial entity" §556.1(11).
  - "business association" defined to include non-profits §556.1(2).



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# What Unclaimed Property is Reportable to Iowa?

- All unclaimed property that is not expressly exempted under Iowa Code Chapter 556, where the owner had a last known address in Iowa is reportable to Iowa.
- Additionally, unclaimed property is reportable to the state of Iowa where:
  - The holder is incorporated in the state of Iowa, and the address of the owner is unknown, or the address is in a foreign jurisdiction.
  - The underlying obligation is represented by a money order, traveler's check, or other similar written instrument, which was issued in Iowa.
  - The property consists of safe deposit box contents and the safe deposit box was opened in Iowa (regardless of the last known address of the owner).
- NOTE: there is no minimum or threshold amount; all property, regardless of materiality, is reportable.



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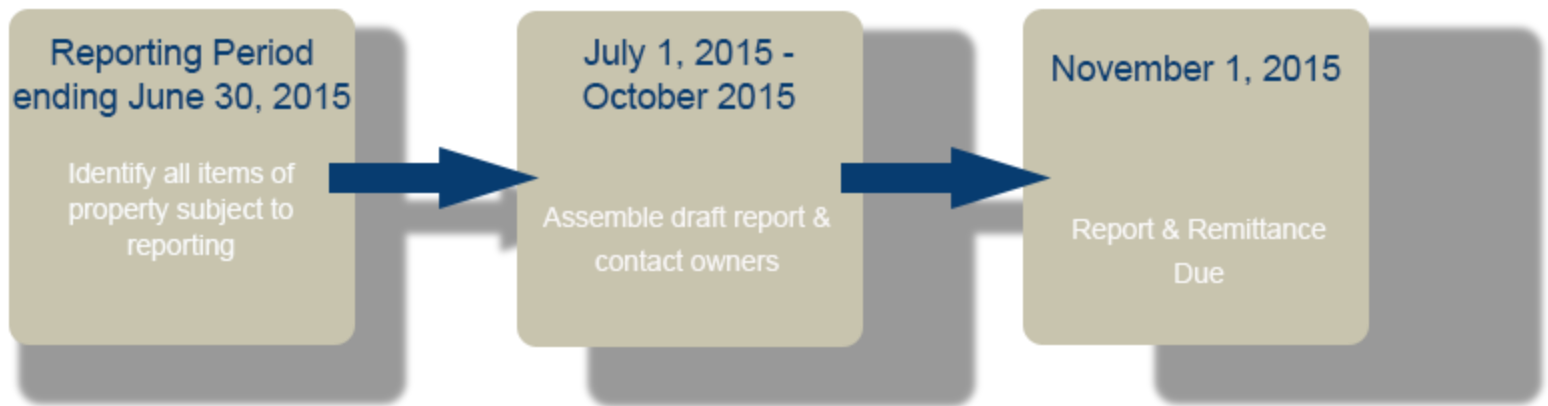
# Unclaimed Property Case Law

- In addition to what is stated in Chapter 556, the rest is covered in:  
Texas vs. New Jersey (1965)
- All unclaimed property needs to be reported to the state of the owner's last known address.
- As a matter of federal common law, the state of the last known address of the creditor (missing owner) is entitled to the property.
- *Texas v. New Jersey*, 380 U.S. 518 (1965).
- If there is no last known address for the owner or the last known address is in a state that does not claim the property, the property is subject to claim by the debtor's (holder's) state of incorporation/organization.
- Exception: safe deposit box contents, money orders, traveler's checks, and other similar instruments (12 U.S.C. §2503).



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# Reporting Timeline



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# Holder Responsibilities

- Report and Remit
- Monitor law changes
- Perform due diligence
- Monitor stale dated checks
- Balance the general ledger liability to an unclaimed property database
- Iowa - retain documentation at least 4 reporting years
- Coordinate external audits
- Develop an unclaimed property program/procedure



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# Important Information for Reporting

1. Owner identifying information: name, last known address, date of birth, social security number, etc.
2. Property type code (listing provided online) helps to identify the outstanding obligation owed.
3. Owner relationship code (listing provided online) helps to identify who is entitled to the reported property.
4. Any other information that may prove beneficial in identifying the rightful owner.



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# Reporting

- Every entity holding unclaimed funds should report in the NAUPA II format.
- There are three pieces to a complete unclaimed property report: NAUPA II formatted file, signed coversheet, and remittance.
- The output of most softwares is a .hde formatted file which is the NAUPA II file that has been encrypted and can be directly imported into state systems.
- There are two free software options that will create the NAUPA file on our “Electronic Reporting” page available for public use.





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## How to Report- Software Overview

- Input information about you, the holder, and all information on the property and property owner.
- The software will create a coversheet and file, which you will send, along with a check to the treasurer's office. These three components will make up your unclaimed property report.
- UP Exchange does provide you the options to use their program free and manually send us the report OR to use their program and pay a small fee for them to transmit the report and/or funds directly to our office.
- Free software options (UP Exchange and HRS Pro) are available on our website on the "Electronic Reporting" page.



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## Reporting

- You may send the file to our office in one of the following ways:
  - UPEXpress/UPExchange
  - Email to [upremit@iowa.gov](mailto:upremit@iowa.gov)
  - CD
  - USB flash drive
- Reporting in the requested format allows us to process and load reports timelier and directly into the state's database-reducing the risk of losing or corrupting information.



## Due Diligence

- Efforts by holders to locate owners when an account first becomes inactive or a check remains uncashed are recommended.
- Statistics show that most “lost” owners can be more easily found if an attempt to locate them is made during the first six months following a change of address.
- For those owners whose property remains unclaimed, holders are generally required to issue a owner notification, or a “due diligence” letter, prior to the reporting and delivery of such property.



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# Due Diligence continued

Benefits of the due diligence process :

- Good practice even if not required
- Communication may be reestablished
- May prevent past & future abandoned property
- Mail a letter by first class mail to the last known address of the owner of the property having a value of \$50 or more.
- A holder is not required to mail a due diligence letter if there is no valid address on file, or where the property has a total combined value of less than \$50



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## Components of a Due Diligence Letter

- A Written Notice Should Contain:
  - What will happen if no action is taken
  - State is only the custodian
  - Deadline for contact
  - Contact information for holder
- Allow appropriate time for owner to respond.
- Keep record and report the owners' last known address (even though mail may have been returned by the post office). This information is crucial in our efforts to verify ownership of property.



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## Due Diligence Questions

- If you receive due diligence as undeliverable with no forwarding address:
  - Considered as having preformed due diligence
  - Take note of the returned mail and submit the last known address to the treasurer's office.
- If you know that the owner of the property is deceased you will still mail out due diligence unless you are certain that the mail is not being forwarded.
- The key is trying to find the rightful owner.



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## Due Diligence

- These letters should be mailed not more than 120 days and at the very least not less than 30 days prior to the report date.
- Should an owner come forward following the filing of the report, the holder may pay the owner directly and then file for reimbursement from the treasurer's office. Please call the office prior to reimbursement to verify we have not paid the funds out.
- The Holder Reimbursement Form can be found on our website.



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## Due diligence and the 35% Law

- The treasurer of state may charge a \$5 fee to holders for each owner record reported on a report if 35% or more of the accounts are claimed within 24 months of filing the report (please refer to Chapter 556.11 for specific language).
- Our office would prefer due diligence be performed and the property not come to us rather than to impose this fee.





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## Unclaimed property exempt from reporting under Chapter 556

- "Business-to-business" transactions (§556.10).
  - Clarifying rule issued 2012: exempt "credits, advance payments, overpayments, refunds, or credit memoranda" does not include obligations reduced to a check or payments due for goods delivered or services rendered (781-9.3).
- Cooperative dividends, capital credits, membership refunds issued after 1-1-97 (§499.30A).
- Property presumed abandoned under the laws of another state prior to the effective date (7-1-67).



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# 2014 Gift Card Reporting change

## Gift Cards/Certificates and Unclaimed Property Abandonment Guidelines

Issued Prior to 8-22-2010	Issued After 8-22-2010	Issued July 1, 2014 and beyond
Reportable as unclaimed property after 3 years of inactivity	Reportable as unclaimed property after 5 years of inactivity	<b>Open and Closed Loop Cards with expiration dates and/or fees:</b> Reportable as unclaimed property after 5 years of inactivity  <b>Closed loop cards redeemable for merchandise only that never expire or incur fees:</b> No longer required to be reported as unclaimed property
<b>Per the Federal CARD Act enacted 8-22-2010:</b> Fees cannot be assessed until 12 months after the instrument's activation and expiration dates need to be disclosed on the instrument.		



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# Overlooked property types subject to Chapter 556

- Gift certificates (§556.9).
- Retirement accounts (§556.7) (ERISA pre-emption?).
- Certificates of deposit (CDs)(§556.2(3) and Rule 781-9.8).
- "Expired" checks.
- "Retained asset" accounts (§556.9 and Rule 781-9.9).
- Mineral interests (§556.1 and 9).
- Property held in trust (§556.7).
- "Groupons" and similar "daily deals" (§556.9).
- Property held by state agencies, courts, and municipal entities (§556.8).
- Client Trust Accounts (§556.7).



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## Voluntary Disclosure Program

- Directed at holders that need to come into compliance but have special circumstances such as incomplete records, complex reporting liabilities, or other special situations of disputes.
- Allows holders to resolve longstanding liabilities.
- The holder must file a request and provide an explanation of their special circumstances.

See [www.iowatreasurer.gov](http://www.iowatreasurer.gov) for more information.



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## Some common reporting errors

- Reporting/remitting property that has not yet reached the statutory abandonment period.
- Failing to perform due diligence (owner notice mailings).
- Using incorrect owner relationship codes.
- Failing to provide owner names, addresses, social security numbers, or other identifying information.
- Failing to include the property remittance with the report.
- Offsetting costs of owner notification mailings against the property remittance.
- Reporting property where there is active contact with the owner.



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# Creating an Unclaimed Property Program

- Include all necessary departments to create a policy.
- Bring key players together.
- Establish who is responsible for unclaimed property compliance.
- Define roles of employees.
- Provide checks and balances.
- Communicate the policy with all agents involved.
  - Protects the property and the company.
  - Abandoned property often at risk of becoming embezzled or the victim of fraud.
  - Report regardless of property amount.
  - Shortcuts put company at risk.
- Review the company history of reporting.



## Benefits of Creating an Unclaimed Property Program

- Reduces records maintenance.
- Eliminates a major source of internal fraud.
- Avoids interest and penalties from not reporting.
  - Late reporting interest: The 10 percent from the date property became reportable or 7-1-84, whichever is later (§556.25(1)).
  - The assessment of interest is back to being the rule; waivers will only be granted upon a showing of good cause.
  - A penalty equal to 25 percent of unreported property may be assessed for a holder's willful failure to comply (§556.25(2)).
- It's the law.
- Reunites owners with their entitlements and promotes customer goodwill.



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## THE DAILY REPORTER

## Hunt for 'treasure,' save for college



to search the

- Mail Letters
- Publish in newspapers
- Website
- Press releases
- Iowa State Fair
- Other events

[illegible]

**WeThePeople** By Sean J. Miller [sean@dmccityview.com](mailto:sean@dmccityview.com)

## Treasure: lost and found

lowans' unclaimed property amounts to more than cash

Inside State Treasurer Michael Fitzgerald's office on the second floor of the Capitol there's a vault filled with treasure. It's not the kind of treasure pirates would bury on a remote beach; for the most part, it's personal treasure from thousands of Iowans whose banks lost track of them.

As part of the state's unclaimed property program — the Great Iowa Treasure Hunt — anything left in a bank safe deposit box that has been idle for three years, and if the owner cannot be located, is turned over to the treasurer's office.

The unclaimed property program is well-known for returning millions of dollars in cash to people, businesses and organizations in Iowa. But many people don't know that unclaimed property also includes the odds and ends people lock up in safe deposit boxes.

"It's a peek into everyday Iowa," Fitzgerald says.

Every year, banks send the treasurer's office coin collections, stamp collections, baseball card collections, false teeth, peo-

State Treasurer Michael Fitzgerald displays some of his office's treasure, including a Civil War era pistol.

ted \$25,000, Fitzgerald says. "We're one of the best states in the Union at returning this [property]," with 56 percent of the cash and artifacts returned to the rightful owners. The remaining items are held in the treasurer's vault, and the cash is

**[www.greatiowatreasurehunt.gov](http://www.greatiowatreasurehunt.gov)**





## Reporting and Remitting Safe Deposit Box Contents

- Any funds or other personal property, tangible or intangible, removed from a safe deposit box are to be reported if:
  - Rental period has expired due to nonpayment of rental charges.
  - Three years from the date on which the lease or rental period expired.
- Once the box is considered abandoned, you may drill and inventory the contents.
- Money cannot be taken from the abandoned box to recoup drilling costs or bank fees.
- The electronic report and signed coversheet are to be reported to the treasurer's office by November 1<sup>st</sup>
- Contents are to be remitted the following spring (a specific week as requested by the TOS) by hand delivery, courier, or sent certified mail.



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## Inventorying SDB Contents continued

- All contents must be reported and remitted to the treasurer's office – even if they are not considered to be of monetary value.
- Take precaution when handling and shipping items, as they have been safeguarded for numerous years and need to remain in their condition.
- Be certain to separate the boxes from one another when preparing to send them into our office. Make a clear distinction between box owners (including a copy of the inventory helps).
- DO NOT remit hazardous items or firearms directly to the treasurer's office. If a drilled box contains either of these items, please contact the treasurer's office for further instruction.
- For specific examples on how to report safe deposit boxes, please look at the Financial Institution Manual on the website under Holder Manuals.



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## Where and When to Remit

- Reports due November 1
- Reports that are not remitted via UPExchange or emailed may be sent to:  
Treasurer of State  
Unclaimed Property  
PO Box 10430  
(Physical address) MACN8200-071 800 Walnut St  
Des Moines, IA 50309
- To request a reporting extension email [upreport@iowa.gov](mailto:upreport@iowa.gov) or fax (515) 281-6962 an extension request form (available online) before the November 1 deadline. You will receive a written response to your request so please include contact information.



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## THANK YOU

- If you have any questions, please use the “Question” feature and we will address what we can at this time.
- If we don’t get to your question, we will email you with an answer.
- Please feel free to contact our office at anytime: [upreport@iowa.gov](mailto:upreport@iowa.gov) or (515)281-7546.



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**Resources and information**

State Treasurer's Office

Kathryn Fehring [upreport@iowa.gov](mailto:upreport@iowa.gov) 515-281-7546

**Useful Websites**

National Association of Unclaimed Property Administrators  
([www.unclaimed.org](http://www.unclaimed.org))

State Treasurer's Office

[www.iowatreasurer.gov](http://www.iowatreasurer.gov)